

Attorney Docket No. TRAC-100FWC CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#17

In Re Application of

RHONDA TRACY

Serial No.: 09/107,643

Filed: June 30, 1998

For: DISPOSABLE DIAPER WITH

PADDED WAISTBAND AND PADDED LEGHOLES

Examiner: M. Po

M. Polutta

Art Unit:

3761

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington,

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Assistant Commissioner for Patents

Washington, D.C. 20231

RESPONSE TO IMPROPER PTO COMMUNICATION

Dear Sir:

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Upon receiving the Office Action of November 8, 1999, we noticed certain errors therein and called these to the attention of the Supervising Primary Examiner by telephone. In particular, the November 8, 1999 action was styled as an "Advisory Action." However, there has never been a final rejection in this application and it therefore is improper for the PTO to render an Advisory Action which, among other things, refused to enter the Amendment of October 21, 1999, which the Examiner wrongly considered a "Proposed" Amendment.

The Supervising Primary Examiner returned our telephone call and left a voice mail message on November 29, 1999 indicating that the undersigned was correct and that indeed the paper mailed

July 21, 1999 was not a Final Rejection.

The Supervising Primary Examiner indicated that Examiner Polutta would need to enter the Amendment of October 1999 and respond to it.

The understanding of the undersigned, accordingly, is that Applicant is awaiting action from the PTO and there is no period running against Applicant which requires any response. <u>If this is incorrect, we request the Examiner or his supervisors to telephone the undersigned.</u>

For the record, Applicant requests the PTO to withdraw its improper action of November 8, 1999.

. Respectfully submitted,

Dated: January 10, 2000

Edward D. Manzo (Attorney of Record Registration No. 28,139)

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